
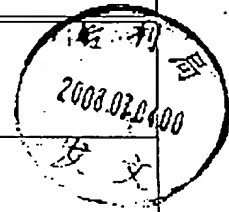




中华人民共和国国家知识产权局

100032 北京市西城区金融街 27 号投资广场 B 座 19 层 中国专利代理(香港)有限公司 马崇德, 邹哲梅	发文日
申请号: 2004800359061 	
申请人: 株式会社日本触媒	
发明名称: 以吸水树脂作为主要成分的栽培植物用颗粒保水材料	



第一次审查意见通知书

0661383

(进入国家阶段的 PCT 申请)

1. ☒ 应申请人提出的实审请求, 根据专利法第 35 条第 1 款的规定, 国家知识产权局对上述发明专利申请进行实质审查。
☐ 根据专利法第 35 条第 2 款的规定, 国家知识产权局专利局决定自行对上述发明专利申请进行审查。
2. ☒ 申请人要求以在:

JP 专利局的申请日 2003 年 12 月 05 日为优先权日,
专利局的申请日 年 月 日为优先权日,
专利局的申请日 年 月 日为优先权日。

3. ☐ 申请人于 年 月 日和 年 月 日以及 年 月 日提交了修改文件。
经审查, 申请人于 年 月 日提交的 不符合专利法实施细则第 51 条第 1 款的规定。

- ☐ 审查是针对原始提交的国际申请的中文译文进行的。
4. ☒ 审查是针对下述申请文件进行的:

☒ 说明书 第 1-28, 30-41 页, 按照进入中国国家阶段时提交的国际申请文件的中文文本;
第 29 页, 按照专利性国际初步报告附件的中文文本;
第 页, 按照依据专利合作条约第 28 条或 41 条规定所提交的修改文件;
第 页, 按照依据专利法实施细则第 51 条第 1 款规定所提交的修改文件;
第 页, 按照 年 月 日所提交的修改文件。

☐ 权利要求 第 1-22 项, 按照进入中国国家阶段时提交的国际申请文件的中文文本;
第 项, 按照依据专利合作条约第 19 条规定所提交的修改文件的中文文本;
第 项, 按照专利性国际初步报告附件的中文文本;
第 项, 按照依据专利合作条约第 28 条或 41 条规定所提交的修改文件;
第 项, 按照依据专利法实施细则第 51 条第 1 款规定所提交的修改文件;
第 项, 按照 年 月 日所提交的修改文件。

☐ 附图 第 1-2 页, 按照进入中国国家阶段时提交的国际申请文件的中文文本;
第 页, 按照专利性国际初步报告附件的中文文本;
第 页, 按照依据专利合作条约第 28 条或 41 条规定所提交的修改文件;
第 页, 按照依据专利法实施细则第 51 条第 1 款规定所提交的修改文件;
第 页, 按照 年 月 日所提交的修改文件。



申请号 2004800359061



☐本通知书引用下述对比文件(其编号在今后的审查过程中继续沿用):

编号

文件号或名称

公开日期(或抵触申请的申请日)

5. 审查的结论性意见:

☐关于说明书:

- ☐申请的内容属于专利法第5条规定的不授予专利权的范围。
- ☐说明书不符合专利法第26条第3款的规定。
- ☐说明书不符合专利法第33条的规定。
- ☐说明书的撰写不符合专利法实施细则第18条的规定。

☒关于权利要求书:

- ☐权利要求 不具备专利法第22条第2款规定的新颖性。
- ☐权利要求 不具备专利法第22条第3款规定的创造性。
- ☐权利要求 不具备专利法第22条第4款规定的实用性。
- ☐权利要求 属于专利法第25条规定的不授予专利权的范围。
- ☐权利要求 不符合专利法第26条第4款的规定。
- ☐权利要求 不符合专利法第31条第1款的规定。
- ☐权利要求 不符合专利法第33条的规定。
- ☐权利要求 不符合专利法实施细则第2条第1款的规定。
- ☐权利要求 不符合专利法实施细则第13条第1款的规定。
- ☒权利要求1, 17, 19不符合专利法实施细则第20条的规定。
- ☐权利要求 不符合专利法实施细则第21条的规定。
- ☒权利要求1-2, 17-19不符合专利法实施细则第22条的规定。
- ☒权利要求 4-16 不符合专利法实施细则第23条的规定。

☐分案的申请不符合专利法实施细则第43条第1款的规定。

上述结论性意见的具体分析见本通知书的正文部分。

6. 基于上述结论性意见, 审查员认为:

- ☐申请人应按照通知书正文部分提出的要求, 对申请文件进行修改。
- ☒申请人应在意见陈述书中论述其专利申请可以被授予专利权的理由, 并对通知书正文部分中指出的不符合规定之处进行修改, 否则将不能授予专利权。
- ☐专利申请中没有可以被授予专利权的实质性内容, 如果申请人没有陈述理由或者陈述理由不充分, 其申请将被驳回。

7. 申请人应注意下述事项:

- (1) 根据专利法第37条的规定, 申请人应在收到本通知书之日起的肆个月内陈述意见, 如果申请人无正当理由逾期不答复, 其申请将被视为撤回。
- (2) 申请人对其申请的修改应符合专利法第33条的规定, 修改文本应一式两份, 其格式应符合审查指南的有关规定。
- (3) 申请人的意见陈述书和/或修改文本应邮寄或递交国家知识产权局专利局受理处, 凡未邮寄或递交给受理处的文件不具备法律效力。
- (4) 未经预约, 申请人和/或代理人不得前来国家知识产权局专利局与审查员举行会晤。

8. 本通知书正文部分共有 2 页, 并附有下列附件:

☐引用的对比文件的复印件共 份 页。

审查员: 刘明强(2805)

审查部门

机械发明审查部



第一次审查意见通知书正文

申请号：2004800359061

本申请涉及一种以吸水树脂作为主要成分的栽培植物用颗粒保水材料，经审查，现提出如下审查意见。

权利要求1中出现了用括号注释说明的现象，导致该权利要求保护范围不能准确确定，不符合中华人民共和国专利法实施细则第二十条的规定，申请人应当删除括号，修改成正面描述形式。

独立权利要求1和独立权利要求2所涉及的是同一项发明，撰写成两个独立权利要求不符合中华人民共和国专利法实施细则第二十二条第三款的有关规定。从内容上看，在后独立权利要求包含了在前独立权利要求的全部技术特征，只是从钙释放指数的角度对在前独立权利要求的进一步限定，因此应当将后者改为引用前者的从属权利要求。

从属权利要求4-16本身是一个多项从属权利要求，它们分别引用了在前的多项从属权利要求，因此，不符合中华人民共和国专利法实施细则第二十三条第二款的规定。申请人应当对上述权利要求的引用关系进行修改。

独立权利要求17、18和19所涉及的是同一项发明，撰写成三个独立权利要求不符合中华人民共和国专利法实施细则第二十二条第三款的有关规定。从内容上看，在后独立权利要求包含了在前独立权利要求的全部技术特征，只是对在前独立权利要求的进一步限定，因此应当将后者改为引用前者的从属权利要求。

另外，权利要求17和19中都出现了成分用量为0的现象，导致

一项权利要求中出现了不同的保护范围，致使所述权利要求的保护范围不能准确确定，并且，会产生矛盾。因为当用量为0时，就意味着不包括这种成分，而不是包括。因此，所述权利要求不符合中华人民共和国专利法实施细则第二十条第一款的规定。申请人应当根据实施例记载的相应内容，将相关成分用量的下限合理修改为大于0的值，以便消除上述缺陷。

基于上述理由，本申请按照目前的文本还不能被授予专利权。如果申请人按照本通知书提出的审查意见对申请文件进行修改，克服所存在的缺陷，则本申请可望被授予专利权。对申请文件的修改应当符合中华人民共和国专利法第三十三条的规定，不得超出原说明书和权利要求书记载的范围。如果申请人不按照上述审查意见修改申请文件，又没有陈述充分、合理的理由，本申请将被驳回。

审查员：刘明强

代码：2805

CPCH0661583P

Patent Office of the People's Republic of China

Address : Receiving Section of the Chinese Patent Office, No. 6 Tucheng Road West, Haidian District, Beijing, Postal code: 100088

Applicant	NIPPON SHOKUBAI CO., LTD.		Seal of Examiner	Date of Issue
Agent	China Patent Agent (H.K.) Ltd.			
Patent Application No.	200480035906.1	Application Date	December 6, 2004	Exam Dept
Title of Invention	PARTICULATE WATER RETAINING MATERIAL FOR CULTIVATING PLANT HAVING WATER ABSORBENT RESIN AS MAIN COMPONENT			

First Office Action

1. ☒ Pursuant to the provision of Article 35 (1) of the Chinese Patent Law, the examiner made an examination as to substance of the captioned patent application for invention upon the request for substantive examination filed by the applicant on.
- ☐ Pursuant to the provision of Article 35 (2) of the Chinese Patent Law, the Chinese Patent Office has decided to conduct on its own initiative an examination as to substance of the captioned patent application for invention.
2. ☒ The applicant requests taking the filing date, December 5, 2003, at the JP Patent Office, the filing date, _____, at the _____ Patent Office, the filing date, _____, at the _____ Patent Office as the priority date of the present application.
- ☐ A copy of the first filed patent application certified by the receiving organ of the initial country of filing has been submitted by the applicant.
- ☐ A copy of the first filed patent application certified by the receiving organ of the initial country of filing has not been submitted by the applicant. Pursuant to the provision of Article 30 of the Chinese Patent Law, no priority right shall be deemed to have been claimed.
3. ☐ The applicant filed amended application document(s) on _____ and _____.
- ☐ Examination has confirmed that _____ filed on _____ cannot be accepted, _____ filed on _____ cannot be accepted,
- as the above amendment(s) ☐ is/are not in conformity with the provision of Article 33 of the Chinese Patent Law.
- ☐ is/are not in conformity with the provision of Rule 51 of the Implementing Regulations of the Chinese Patent Law.
- ☐ For the specific reason that the amendment(s) cannot be accepted, see the text of the Office Action.

4. ☐ The examination is conducted in the light of the original application document(s)
☒ The examination is conducted in the light of the following application document(s):
in the original application documents submitted on the filing date: Claims 1-22,
pages 1-28, 30-41 of the description, Figures 1-2 of the drawing(s);
Claim(s) _____, page 29 of the description, Figure(s)
submitted according to the patentability international preliminary report appendix;
Claim(s) _____, page (s) _____ of the description, Figure(s)
submitted on _____
☐ Abstract of the description submitted on _____.
5. ☐ The present Office Action has been prepared without a search having been conducted.
☐ The present Office Action has been prepared with a search having been conducted.
☐ The following reference document(s) is/are cited in this Office Action (its/their serial number(s) will, continue to be used throughout the examination procedure):

No.	Number or Title of Document	Date of Publication (or filing date of interfering application)
1		(Date)
2		(Date)
3		(Date)
4		
5		
6		

6. The concluding comments of the examiner are:

- ☐ On the description:
- ☐ The content of the application comes within the scope where no patent right is granted as provided in Article 5 of the Patent Law.
 - ☐ The description is not in conformity with the provision of Article 26(3) of the Patent Law.
 - ☐ The drafting of the description is not in conformity with the provision of Rule 18 of the Implementing Regulations.
- ☒ On the claims:
- ☐ Claim comes within the scope where no patent right is granted as provided in Article 25 of the Patent Law.
 - ☐ Claim(s) is/are not in conformity with the definition of invention in Rule 2(1) of the Implementing Regulations.
 - ☐ Claim(s) _____ does/do not possess novelty as provided in Article 22(2) of the Patent Law.
 - ☐ Claim(s) _____ does/do not possess inventiveness as provided in Article 22(3) of the Patent Law.
 - ☐ Claim(s) _____ does/do not possess practical applicability as provided in Article 22(4) of the Patent Law.

- ☐ Claim(s) _____ is/are not in conformity with the provision of Article 26(4) of the Patent Law.
- ☐ Claim(s) _____ is/are not in conformity with the provision of Article 31(1) of the Patent Law.
- ☒ Claims 1, 17 and 19 are not in conformity with the provisions of Rule 20 of the Implementing Regulations.
- ☒ Claims 1-2 and 17-19 are not in conformity of the provision of Rule 22 of the Implementing Regulations.
- ☒ Claims 4-16 are not in conformity of the provision of Rule 23 of the Implementing Regulations.

For specific analyses of the above concluding comments, see the text of this Office Action.

7. In view of the above concluding comments, the examiner holds that:

- ☐ The applicant should amend the application document in accordance with the requirements raised in the text of this Office Action. The amended document(s) should be submitted in duplicate and should conform to the provisions of Article 33 of the Patent Law and Rule 51 of the Implementing Regulations of the Chinese Patent Law.
- ☒ The applicant should expound in his Observations the reasons why the captioned patent application is patentable and amend the places not conforming to regulations as pointed out in the text of the Office Action, otherwise it would be impossible for the patent right to be granted.
- ☐ The captioned patent application contains no substantive content for which the patent right may be granted, thus if the applicant has not advanced his reasons or has not done so adequately, the application will be rejected.

8. The applicant should pay attention to the following matters:

- (1) In accordance with the provision of Article 37 of the Patent Law, the applicant should submit his/its Observations within four months from the date of receipt of this Office Action; if, without any justified reason, the time limit for making response is not met, the application will be deemed to have been withdrawn.
- (2) The amendments made by the applicant to his application should conform to the provision of Article 33 of the Patent Law, the amended text should be in duplicate and the format should conform to the relevant provisions of the Guidelines for Examination.
- (3) The applicant's Observations or amended text should be mailed or presented to the Receiving Section of the Chinese Patent Office. Document not mailed or presented to the Acceptance Section have no legal force.
- (4) Without making an appointment, the applicant and/or agent may not come to the Chinese Patent Office to hold an interview with the examiner.

9. This Office Action consists of the text portion totalling 2 page and of the following annex(es):

- ☐ _____ duplicate copies of the reference document(s) cited totalling page(s).

Appl No. 200480035906.1
Your Ref: F 04-056-PCT/CN/MT
Our Ref: CPCH0661583P

Text of the First Office Action

This application relates to a water retaining material for use in cultivating a plant. After examination, the examiner raises the follow comments.

The explanation within the parenthesis in claim 1 causes that the protection scope of this claim cannot be accurately determined. Thus, claim 1 does not conform to the provision of Rule 20 of the Implementing Regulations of the Chinese Patent Law. The applicant shall delete the parenthesis and revise it as an explanation in a direct way.

Independent claim 1 and independent claim 2 relate to the same invention. Drafting one invention as having two independent claims does not conform to the provision of Rule 22 (3) of the Implementing Regulations of the Chinese Patent Law. According to the contents of the two claims, the latter claim includes all the technical features of the preceding claim, and only further defines the preceding claim in the aspect of the calcium release index. Thus, the latter shall be revised as the dependent claim referring to the former.

Dependent claims 4-16, as multiple dependent claims by themselves, respectively refer to preceding multiple dependent claims. Thus, they do not conform to Rule 23 (2) of the Implementing Regulations of the Chinese Patent Law. The applicant shall amend the dependency of the claims above.

Independent claims 17, 18 and 19 relate to the same invention. Drafting one invention as having three independent claims does not conform to the provision of Rule 22 (3) of the Implementing Regulations of the Chinese Patent Law. According to the contents of the three claims, the latter claim includes all the technical features of the preceding claim,

and only further defines the preceding claim in the aspect of the calcium release index. Thus, the latter shall be revised as the dependent claim referring to the former.

Besides, the content of 0 appears in both of claims 17 and 19, which defines different protection scopes within one claim. Thus, the protection scopes of the said claims cannot be accurately determined, and conflict occurs. That's because when the content is 0, it means that this component is not comprised rather than comprised. Hence, claims 17-19 do not conform to the provision of Rule 20 (1) of the Implementing Regulations of the Chinese Patent Law. The applicant shall reasonably revise the minimum of the relevant component content as a value larger than 0 according to the corresponding examples to overcome the defect above.

Upon the grounds above, the present application cannot be granted a patent right according to the current text. If the applicant amends the application documents according to the comments raised in this notice to overcome the existing defects, the present application will be expectantly granted a patent right. Any amendments to the application documents made by the applicant shall conform to the provision of Article 33 of the Patent Law and shall not go beyond the scope of the initial disclosure contained in the initial Description and Claims. If the applicant fails to amend the application documents according to the comments above or to state sufficient and reasonable grounds, the present application will be rejected.